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ABSTRACT

The report describes a project, the National Clearinghouse on Offender Employment Restrictions, designed to develop a program to help in the removal of formal barriers to job opportunities for ex-offenders. The report describes the project's effort in gathering research and development materials relating to licensing restrictions and other employment problems of ex-offenders; packaging and distributing such materials to bar associations and other groups; conducting workshops, panels, and conferences; and providing consultative services in the removal of such restrictions. The report also summarizes State efforts to alleviate ex-offender employment restrictions in the 21 States where restrictions have been removed and in the 26 States and the District of Columbia where legislative action is pending or has been defeated. The report finally examines the general effect of remedial legislation in the 21 States where it is in effect and discusses specific effects of such legislation in Connecticut, New Jersey, Arkansas, Illinois, Colorado, Washington, and Hawaii. (JR)

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FINAL REPORT

# NATIONAL CLEARINGHOUSE ON OFFENDER EMPLOYMENT RESTRICTIONS

DOL Contract No.82-11-72-02

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## PREFACE

The National Clearinghouse on Offender Employment Restrictions, a project sponsored jointly by the American Bar Association's Commission on Correctional Facilities and Services, and Section of Criminal Justice, was funded by a contract with the United States Department of Labor's Employment and Training Administration, through its office of Research and Development.

As stated in more detail in this report, the Clearinghouse project was to gather and disseminate information on the removal of arbitrary restrictions on job opportunities for ex-offenders. These restrictions, from a corrections perspective, hinders attempts to rehabilitate offenders and, from a manpower standpoint, impedes efforts to develop offenders as a manpower resource by closing off many lawful avenues of employment for them.

The project, which became operational on December 1, 1971, was initially funded for an 18-month period. Since then, it has been extended twice through modification of the contract between the Department of Labor and the American Bar Association by their mutual consent.

This final report summarizes the work of the project from its inception to its termination.

This report was prepared, and the project funded, under Contract No. 82-11-72-02 with the Employment and Training Administration, U.S. Department of Labor under authority of the Manpower Development and Training Act. Researchers undertaking such projects are encouraged to express their own judgments freely. Interpretations or viewpoints stated in this document do not necessarily represent the official position or policy of the Department of Labor.

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## PROJECT OBJECTIVE

The objective of the National Clearinghouse on Offender Employment Restrictions was to develop a program to help in the removal of formal barriers to job opportunities for ex-offenders. Specifically, as stated in its funding contract, the project was to : (1) utilize existing information by gathering research and development material prepared by the Department of Labor and other agencies relating to the employment problems of offenders, package it, and distribute it to bar associations and other groups; (2) conduct a search of state laws restricting the occupational licensing of former offenders; (3) conduct workshops, conferences and panels on an "as invited" basis dealing with offender job restrictions; and (4) provide consultative services to assist in the removal of such restrictions.

## IMPLEMENTATION AND UTLIZATION

### A. Gathering material

The first activity of the Clearinghouse, initially staffed with three consultants and an administrative assistant,* was to gather

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*James W. Hunt has served as director and Charlotte A. Charapp has been the administrative assistant for the project since its inception. James E. Bowers was assistant project director from January 1972 to September 1973, and Neal Miller was assistant director from February 1972 to July 1973. Since October 1973, Donald D. Cooke has served as assistant director and as editor of the project newsletter, "The Offender Employment Review." From June to August 1972, Michael G. Charapp served as research assistant, and from May to September 1974, Elizabeth M. Dreiling was research assistant and liaison to community organizations for the project.

existing material relating to the employment difficulities of former offenders and restrictions on their job opportunities for use in providing assistance to efforts to alleviate these problems. This material included such DOL reports, studies and programs as Professor Herbert Miller's "The Closed Door: The Effect of a Criminal Record on Employment with State and Local Public Agencies," Dr. George Pownall's "Employment Problems of Released Prisoners," publications by the Experimental Manpower Laboratory for Corrections, and the Federal Bonding program.

Review was also made of projects sponsored by the Law Enforcement Assistance Administration, the various task force reports by the President's Commission on Law Enforcement, and related publications by such organizations as the National Council on Crime and Delinquency and the American Correctional Association. Law review articles dealing with employment and civil disabilities of former offenders provided another source of information.

In addition to this material relating to the employment problems of offenders, procedures on how to alleviate offender employment restrictions were also gathered. This included both actual and model legislative procedures.

Practical information on how to remove restrictions was provided to the project by such people as Paul Skelton, Director of Florida's Department of Administrative Services, who was instrumental in Florida's adoption in 1971 of a trade licensing and public employment law affording a former offender fair consideration for a license or governmental job, and by Franklin G. Allen, who was chairman of the committee of the Maryland Bar Association dealing with the alleviation of offender job restrictions in that state.

A special advisory committee to provide advice and guidance to the project was also established representing such diverse backgrounds as business, labor, government, manpower and corrections. They were: Committee Chairman, Carl M. Loeb, Jr., New York, New York, past president, National Council on Crime and Delinquency; James V. Bennett, Bethesda, Maryland, former director of the U.S. Bureau of Prisons; Brian D. Forrow, New York, New York, General Counsel, Allied Chemical Corporation; William Leeke, Columbia, South Carolina, Director of the South Carolina Department of Corrections; Herbert S. Miller, Washington, D.C., Deputy Director, Institute of Criminal Law and Procedure, Georgetown University Law Center; Leonard Nord, Olympia, Washington, Director, Washington State Department of Personnel; Nick Pappas, Washington, D.C., Manpower Specialist, Law Enforcement Assistance Administration; Boyd E. Payton, Philadelphia, Pennsylvania, Deputy Regional Director for Manpower, U.S. Department of Labor Region III; Leo Perlis, Washington, D.C., Director of Community Services, AFL-CIO; Howard Rosen, Washington, D.C., Director, Office of Research and Development, Manpower Administration, U.S. Department of Labor; John Armore, Washington, D.C., Director Ex-Offender Program, National Alliance of Businessmen.

B. Disseminating material

Gathering and reviewing material was a necessary first step for the Clearinghouse, but, more importantly, a strategy to remove offender job restrictions also had to be devised. To achieve maximum results, information had to be disseminated to a broad spectrum of public

minded persons and groups who could act as "change agents" to alleviate barriers to employment on the state and local level. Consultative services and workshops were two ways of achieving this result; however, the project lacked the resources to provide consultation on an intensive 50-state basis and workshops would reach only a limited number of persons. It was therefore decided that information would be disseminated on a broad basis in the form of how-to-do-it manuals, rather than through lengthy research reports, with follow-up assistance through consultative services and workshops provided by the project on a selective basis.

This strategy led to the following publications by the project:*

. Handbook. The project began receiving inquiries and requests for information soon after it began operation on how to alleviate offender employment restrictions. An initial task, early in 1972, was therefore to compile in one reference work a summary of the then known ways of removing such restrictions. This resulted in the publication of "Removing Offender Employment Restrictions," a handbook which summarized the various techniques for removing restrictions together

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*Appendix "A" lists the project's publications and the persons and groups who requested 10 or more copies. Part II of this report contains copies of these publications.

with an appendix containing the actual text of laws that persons and groups could refer to as guides in drafting remedial legislation. The major topics covered were remedial laws and court decisions relating to public employment, trade licensing, restoration of rights, and the expungement and sealing of arrest and conviction records.

A second edition of the handbook was published in 1973, reflecting new developments. Because of the great number of requests--for as many as 300 at a time--the handbook was also made available in a summary version without the appendices containing the text of various remedial laws so as to facilitate greater distribution.

• Newsletter. To report on the employment problems of offenders and provide up-to-date information on efforts to alleviate these problems through manpower programs and the removal of job restrictions, the project developed a newsletter, "Offender Employment Review." The thirteen issues of the newsletter included special feature stories on Pownall's "Employment Problems of Released Prisoners," Miller's "The Closed Door," the Experimental Manpower Laboratory for Corrections, the DOL bonding program, the exemplary rehabilitation certificate program for ex-servicemen, and court decisions relating to employment rights of former offenders. Other subjects included state legislative activity, guidelines for private employers to consider in hiring ex-offenders and, reflecting the growing interest of readers, the work of other groups relating to job development and placement programs for former offenders.

• Booklet. A booklet summarizing Miller's "The Closed Door" was prepared for general distribution. Entitled "Expanding Government Job Opportunities for Former Offenders," this publication included a model public employment law drafted by Professor Miller, guidelines that a government agency could follow in determining the employability of former offenders, and an executive order relating to the public employment of ex-offenders.

• License study. A study of state laws containing restrictions on the occupational licensing of former offenders was conducted under a subcontract for the Clearinghouse by the Georgetown University Law Center Institute of Criminal Law and Procedure. The results of this study were reported in the project booklet "Laws, Licenses and the Offender's Right to Work," which, in an appendix, included examples of actual and model laws that reform groups could (and many did) use as models for drafting remedial laws in their states.

• Legislative guide. As the project matured, it became familiar with the various strategies that had been employed to bring about legislative change. In order to help others who planned similar legislative action the project prepared a booklet entitled, "Guide to Legislative Action: A review of strategies to remove offender job restrictions."

• Legal challenges. In addition to legislative action, a number of court actions have been brought challenging the validity of statutes that arbitrarily locked a person with an arrest or conviction record out of a job. In view of this development and the many inquiries about such litigation, the project prepared the monograph "Constitutional Challenges to Employment Disability Statutes" which discussed the various legal arguments that had been advanced as grounds for striking down restrictive laws.

. Volunteer action. The project has had great support from public, private, religious and volunteer groups and been contacted by many others asking for information that could be handed out in large quantities or included in mailings to members. Two eight page pamphlets were prepared by the project for this audience, the first entitled "What You Can Do to Expand Job Opportunities for Ex-Offenders" and the other "An Opportunity for Involvement: What the Volunteer Organization Can Do to Aid the Ex-Offender."

. Manpower programs. In addition to information about job restrictions, the project received many inquiries for information about manpower programs for offenders. In response to these requests, the project distributed copies of DOL's booklet "Manpower Programs for Offenders," and prepared two pamphlets on this subject. The first, "The Offender as a Manpower Resource," summarized a report to DOL by Roberta Rovner-Pieczenik reviewing R and D manpower projects in the correctional field, while the second pamphlet, "Developing Jobs for Parolees," discussed some of the techniques used to help prospective parolees find jobs on their release.

Other significant articles dealing with ex-offender employment have also been made available by the project. These included: Joseph Cunningham's "Jobs for Ex-Offenders", an article dealing with job development and placement programs for offenders that was originally printed in the magazine Case and Comment; Dr. George Pownall's "Employment Problems of Released Prisoners," an article that appeared in Manpower magazine; Dr. Charles Phillips' "A Case Study: Development and Implementation of a Manpower Service Delivery to the Criminal Offender," a paper presented to the Intergovernmental Group on Social Science Policy; Judge Donald Horowitz' "Giving the Ex Offender a Break", a paper presented

on the project's behalf to the Public Personnel Association; DOL's publications on the federal bonding program and the exemplary rehabilitation certificate for ex servicemen; AFL-CIO's pamphlet "The Man Who

Lived Again: Understanding and Helping the Released Prisoner"; U.S. Chamber of Commerce's booklet, "Marshalling Citizen Power to Modernize Corrections"; National Alliance of Businessmen's "Staying Out of Jail is No Chance for 100,000 Americans Each Year"; and the Civil Service Commission's pamphlet, "Employment of the Rehabilitated Offender in the Federal Service."

The project also reported in depth in its newsletter on outstanding offender manpower programs and job delivery systems and responded to the many requests flowing from an ABA public service television announcement concerning the job difficulties of former offenders.

(In regard to offender employment opportunities, the Clearinghouse, to advance its familiarization with the offender job delivery system, met and conferred with other national organizations involved in improving job opportunities for former offenders--e.g. National Alliance of Businessmen, AFL-CIO's Human Resources Development Institute, Jaycees, and ABA Young Lawyers Section--on ways in which the efforts of national organizations could be coordinated to effect a better delivery of manpower services to offenders, as well as conducting on-site visits to many manpower programs. Project staff also served on the advisory committee to the Model Inmate Employment Project, a three-state program sponsored by the American Correctional Association.)

. Mailing List. There was no suitable mailing list available at the beginning of the project, since its activities spanded the legal, manpower, governmental, and correctional communities. For the first distribution of the newsletter, a mailing list of approximately 900 names was developed which included bar associations involved in correctional reform, offender manpower programs, and the names of other persons and groups that were suggested by various sources as likely to be interested in the work of the project. This mailing list for the newsletter has now grown to over 6,000 names, representing lawyers,

correctional personnel, probation and parole authorities, manpower experts, academicians, inmates, legislators, government officials and private organizations.

In addition to being a vehicle for communicating information relating to offender employment matters, the newsletter also paid an important dividend: The "feedback"--letters and calls—from readers often led to the identification of persons and groups, previously unknown to the Clearinghouse,who could act as "change agents" on the state and local level. Through these contacts, the project was then able to provide them with the information they needed to take effective action to alleviate unwarranted job restrictions.

This publications program is outlined below to demonstrate how it was intended to implement the project's objectives. Column A indicates the information that was needed to encourage effective action to alleviate offender employment problems; column B indicates the project material that explained how remedial action could be taken:

| A | B |
|---|---|
| Informational Need | Resource Material Available |
| What are employment restrictions? | • Licensing restrictions ("Laws, Licenses and the Offender's Right to Work," project report)<br>• Public employment restrictions ("The Closed Door: The Effect of a Criminal Record on Employment with State and Local Public Agencies," by Professor Herbert S. Miller<br>• "Employment Problems of Released Prisoners" (Fownall's report to DOL) |
| How can Restrictions be alleviated? | • "Removing Offender Employment Restrictions" (Project handbook) |

- "Constitutional Challenges to Civil Disability Statutes" (Project monograph)
- "The Federal Bonding Program" (DOL pamphlet)
- "Expanding Government Job Job Opportunities for Ex Offenders," (Project booklet)
- "Giving the Ex Offender a Break" (Project pamphlet by Judge Donald Horowitz)
- "Exemplary Rehabilitation Certificate" (Available from DOL for ex servicemen)

What are states doing to remove job barriers and implement offender manpower programs?

- Issues 1 through 13 of "Offender Employment Review," the project newsletter, reported on current developments in the states relating to offender manpower matters and removing restrictions

What information is available on offender manpower programs?

- "The Offender as a Manpower Resource" (Project pamphlet summarizing R and D manpower Programs for offenders)
- "Manpower Programs for Offenders" (DOL pamphlet)
- "Employment of the Rehabilitated Offender in the Federal Service" (Civil Service pamphlet)
- "Developing Jobs for Parolees" (Project pamphlet)
- "A Case Study: Development and Implementation of a Manpower Service Delivery to the Criminal Offender in the U.S." (By Dr. Charles W. Phillips)
- "Jobs for the Ex-Offender" (Reprint of article)

What can organizations do?

- "An Opportunity for Involvement: What the Volunteer Organization Can Do to Aid the Ex Offender" (Project pamphlet)
- "What You Can Do to Expand Job Opportunities for Ex Offenders" (Project pamphlet)
- "Marshalling Citizen Power to Modernize Corrections" (Publication by U.S. Chamber of Commerce)
- "Staying Out of Jail is No Game for 100,000 Americans Each Year" (Pamphlet by National Alliance of Businessmen)
- "The Man Who Lived Again: Understanding and Helping the Released Prisoner" (Pamphlet by AFL-CIO)

How can organizations initiate remedial legislation in their states?

- "Guide to Legislative Action: A Review of Strategies to Remove Statutory Restrictions on Offender Job Opportunities" (Project booklet)

## C. Other Activity

Workshops. At the outset of the project, it was anticipated that substantial time and resources would be devoted toward special focus workshops and conferences. However, there has been limited interest in such programs by potential participants. From project experience, the most common requests for assistance--and most effective--have come from a one-on-one basis in contacts with key persons and groups, such as bar associations, the Urban League, public defender offices, Jaycees, and legislators or their staffs. The project has also been frequently called upon to address meetings of public interest groups on restrictive employment practices and participate in forums dealing with offender employment assistance programs.

Consultative services. Assistance to persons and groups acting to remove offender employment restrictions, as indicated, has most often been in the form of providing them with handbooks and other necessary material, but the project has also offered to provide them with more direct assistance if that is desired. This help, when requested, has varied from state to state, and ranged from correspondence and telephone conferences to on-site visits. In California and Washington, for example, the sponsors of remedial legislation were familiar with the employment restrictions problem and skilled in preparing the necessary bills. In both states, however, the sponsors sought information from the project in order to better prepare their legislation and to cite reasons for the necessity for such action so that they could encourage other legislators to endorse their efforts.

Similarly, information was provided by the project to the Maryland Bar Association which was instrumental in persuading the State's Attorney General to issue a landmark advisory opinion concerning the

licensing of former offenders.

On the other hand, the Clearinghouse was involved from the beginning in providing technical assistance in drafting a bill in Connecticut to modify restrictions on the licensing and public employment of offenders in that state. It was also successful in soliciting the support of the State's bar association for such legislation.

## STATE EFFORTS TO ALLEVIATE OFFENDER EMPLOYMENT RESTRICTIONS

As a result of its activities and publications, the project was instrumental in the efforts in many of the states that have removed impediments to the employment of former offenders. Chart I below lists the 21 states that have removed restrictions; chart II lists those states where action is pending.

### I. States Where Statutory Restrictions on the Employment of Ex-Offenders have been removed, or affirmative executive actions have been taken

ARKANSAS — 1973, act removing all adverse references to licensing of former felons in all state statutes, based on Clearinghouse model originally developed for it by Georgetown University.

CALIFORNIA — 1972, act removing blanket felony prohibitions in licensing statutes but left 'good moral character' considerations open to adverse interpretation. 1974, bill passed pulling 'good moral character' and all similar noncriminal standards completely out of all statutes and established tighter appeals procedures when a license is denied. Clearinghouse consulted on the bill.

COLORADO -- 1973, act covering both public employment and licensing based on example bill contained in Clearinghouse license study.

CONNECTICUT — 1973, act covering public employment and licensing. Clearinghouse testified before committee and worked with drafters. Act amended in 1974 to allow appeal through state human rights commission. Bill pending in 1975 to protect ex-offenders in private employment.

FLORIDA -- 1971, nation's first bill covering both public employment and licensing. Amended in 1974 to remove a clause requiring applicant to have civil rights restored as a condition of receiving a license.

HAWAII — 1974, nation's first bill banning discrimination against ex-offenders in private employment. Also covers public employment and all licensing laws. Active Clearinghouse assistance and support.

ILLINOIS -- 1971, nation's second bill covered all licensed occupations and trades.

INDIANA -- 1973, all licensing statutes. Clearinghouse license study used as reference source.

IOWA -- 1974, all licensing statutes. License study used as reference.

KANSAS — 1972, all licensing statutes.

MAINE -- 1972, governor's executive order prohibiting discrimination against ex-offenders in state employment. 1975, statute enacted extending ban on ex-offender discrimination to licensing. Clearinghouse assistance.

MARYLAND -- 1972, attorney general's opinion ruling against mandatory licensing restrictions. Clearinghouse consulted on action.

MICHIGAN — 1975, all licensing statutes were covered by successful bill. Clearinghouse provided assistance.

MINNESOTA — 1974, licensing and employment. Clearinghouse technical assistance.

MONTANA — 1975, all licensing statutes. Clearinghouse and state bar assistance and support.

NEW JERSEY — 1974, public employment and licensing. Active Clearinghouse assistance.

NEW MEXICO — 1974, public employment and licensing. Active Clearinghouse assistance.

OHIO — 1973, governor's executive order covering affirmative hiring and guidelines for dealing with "rehabilitated ex-offender."

OREGON -- 1973, all licensing statutes. Active Clearinghouse and state bar support.

RHODE ISLAND -- 1970, governor's executive order prohibiting discrimination by the state.

WASHINGTON -- 1973, public employment and licensing. Active Clearinghouse assistance.

FEDERAL—1973 (December), former President Nixon issued Executive Order 11755 replacing an earlier order (325A) which prohibited work releasees from being employed by a federal contractor. The Clearinghouse was active in the efforts to have E.O.325A repealed (see e.g. September 1973 issue of the project newsletter).

In addition to the action in these states, the Clearinghouse was actively involved in efforts in Kentucky, New Hampshire, New York and West Virginia where remedial bills successfully moved through the legislatures. However, as noted in the following summary of pending state action, these bills were vetoed by the governors of these states.

II. States Where Legislative Change is Pending, has been Vetoed, has Failed in Statehouse, or Shows Promise for the Future

(The information for this summary was compiled by the Clearinghouse through the contacts it developed in the states.)

ALASKA -- 1975, bill covering private and public employment, and licensing. Got stuck in committee, has strong support for next session.

ALABAMA — 1975, bill was considered for inclusion in correctional package but was dropped in favor of getting other reforms passed. Planned for next year.

ARIZONA — 1973, bill stuck in committee. 1975, efforts have been made for an Attorney General's opinion in light of legislators' strong law-and-order mood. State bar behind effort.

CALIFORNIA — 1975, a number of bills dealing with civil service regulations, banning of arrest record information, expungement and related issues have been considered this year.

CONNECTICUT -- 1975, private employment coverage considered as extension of previously passed remedial bills.

DISTRICT OF COLUMBIA -- Amendment to D.C.'s human rights law would protect ex-convicts from employment and housing discrimination.

GEORGIA — State bar plans bill for 1976 general session.

IDAHO — Governor's Criminal Justice Council nearly submitted bill as part of its 1975 package. Coming next year, contacts say.

IOWA — 1974, district court decision struck down state's civil service statute related to ex-felons. Now being implemented and covering an area not dealt with in 1974 legislation.

KENTUCKY -- 1974, passed both houses but vetoed by governor. Weaknesses in bill have been rectified and it has passed interim committee with recommendation for full passage in 1976.

LOUISIANA -- 1974, bill returned to committee. 1975, reported out but narrowly defeated in House. Supporters expect passage in 1976.

MARYLAND — State bar planning bill for 1976 sessions.

MASSACHUSETTS -- 1975 session considered a flawed bill, which has not passed, and which has no particular priority in vast amount of correctional change proposals.

MINNESOTA — 1975 legislature considered private employment bill in addition to those previously passed. Much citizen support.

MISSOURI — Bills introduced in 1974 and 1975 but failed. Supporters feel that considerable change is taking place administratively.

NEBRASKA — 1973, '74 and '75. Bills failed in committee. Supporters optimistic about next year but bill clearly needs more work.

NEVADA — Session too short this year, but leading legislator wants assistance for 1976.

NEW HAMPSHIRE -- 1975, bill passed both houses easily but was vetoed by governor, and legislature couldn't override. Try again next year.

NEW YORK -- 1975, flawed bill passed legislature but vetoed by governor, probably for good reason. Planning sessions set for mid-September to draft strong bill for 1976 sessions.

OHIO — 1974, stuck in committee. 1975, private employment coverage added and may cause more problems with manufacturer's groups. Considered very strong for passage this year, however.

PENNSYLVANIA — 1974, bad bill didn't pass. 1975, better bill but fragmented support. Difficult state to coalesce adherents.

TENNESSEE — State's corrections department plans employment legislation in its 1976 recommended package.

TEXAS — 1975, bill killed in committee. With active NCCD and AFL-CIO support, measure looks promising for 1976, both groups say.

VERMONT -- 1974, introduced in fiscal session but got no hearing. 1975, introduced too late. 1976, corrections commissioner promises early hearing and likely passage.

VIRGINIA — Corrections picture too controversial for further liberalizing. Interest is there to be tapped when situation calms.

WEST VIRGINIA — 1974, passed both houses but vetoed by governor. 1975, passed House but didn't move in Senate. Early push set for 1976 session.

WISCONSIN -- 1973 and 1974, bills bottled after passing one side. 1975, hearings held on new bills in August with great cooperative support from reform groups.

## FOLLOW-UP ON STATE ACTION

The project has talked with persons in several states where remedial laws have been enacted to gain some insight into their effect.** This informal contact, without attempting to quantify the impact of the new legislation, has been in off-the-record talks with various licensing boards, attornies general offices (charged with enforcing the new law), state human rights agencies in Hawaii and Connecticut, and other officials in a position to monitor decisions on state controlled jobs involving licenses or public employment.

Some of the general conclusions drawn from these contacts are that:

1) The new laws have had greatest impact in states where licensing boards fall under the purview of a single agency or where a single unit in the attorney general's office rules on board decisions. Conversely, where board control is scattered among a number of state agencies, licensing decisions appear to continue to be made without anyone's sure awareness that the new laws are being observed, or even that the boards know of the change.

2) Notification by state officials and prisoner rights groups to former felons of changes in the law has been spotty, and depended on the initiative of interested individuals when it has been effective.

3) It is extremely difficult for state hiring officials or licensing boards to extract numbers of applications from former felons which have been received, approved, or rejected. The relatively few cases that come to the attention of human rights agencies or top state

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**The Center for Public Representation in Wisconsin has been in touch with the project about a study it is conducting of the impact of this legislation.

administrators are considered an unrepresentative indication of the flow of former convicts into licensed trades or state employment.

4) Almost every state that has enacted remedial legislation has wrestled with the definition of what constitutes "direct relationship"--a provision in the law requiring that a former offender not be barred from a license or public employment unless it is shown that there is a direct relationship between the offense committed and the job or license sought.

5) All officials questioned on the point agreed that the law had a positive effect on licensing and hiring officials' attitudes toward the ex-offender and that exposure of the issue would have a long-term salutary effect on the employability of ex-offenders.

This does not even consider the unmeasurable effect that exposure of this issue has had on the thousands of legislators and citizens who were barely aware of the problem's existence before the issue was raised.

Some specifics on individual states:

Connecticut

The authority to issue occupational licenses in Connecticut falls under many different jurisdictions. This structural problem--a lack of centralization--has made it difficult not only to monitor the overall effect of the legislation enacted in 1973 but also to enforce a consistent policy regarding ex-offenders. It has been suggested that many boards are unaware of the change, and that some are still asking about arrests, a practice that the new law prohibits. One assistant attorney general said he is advising the credentialing agencies he deals with (liquor, and a few construction trades) about the law, and recommending that those who are convicted but placed in a community-based program not suffer license revocation. He has little idea of how new licensing applications are treated.

As for state employment, Connecticut is one of the few states known to the project that implemented the law with a strong memorandum from the state's personnel director, urging all state hiring offices to be aware of the law's language, to give fair consideration to former offenders, and to contact the main office when problems of interpretation arise. (The state's corrections commission, it might be noted, demonstrated its compliance with the law by sending the memo to its hiring officers together with a reminder that corrections had already hired almost 50 ex-offenders.)

As in most states, there has apparently been a hiring freeze and insufficient movement of personnel to judge the full impact of the law. The human rights commission, which has enforcement power to insure the law's implementation, has received three complaints based on the new law charging discrimination. However, no cause was found in all three.

New Jersey

State officials said their 1974 law was made known to appropriate officials but that a hiring freeze had diminished its impact for the moment on job opportunities for ex offenders in the state government. The assistant attorney general in charge of most licensing bureaus, who showed limited interest in the subject, said that only one challenge under the new law had occurred.

Arkansas

An assistant attorney general in Arkansas feels that their 1972 law has had "considerable effect", but admits that its impact is "difficult to gauge." He indicated that licensing agencies appear to be aware of the law and that a fairer attitude toward license applicants is being

shown. Prior to the law, for example, 20-30 percent of all license revocation hearings involved a commission of a felony by the licensee. Now, with the relationship test required, that level has been reduced by at least in half. Some boards, moreover, have adopted by-laws to implement the law.

Illinois

A new state administration took over about the time Illinois' law became effective in 1971. All affected license boards were brought under one person, the Director of the Department of Education and Registration, described by colleagues as one with great liberality of thinking toward ex-offenders. In an informal interview, the director says that he reviewed every denial--and approval--for a state license and has the final say on all decisions. Those involving criminal records are denied only when the crime unequivocably relates to the occupation. But even then, he says, applicants or revokees are encouraged to try again soon.

This director, like those of other states which appear to have gone farthest in implementing the law, oversees all boards and has power to appoint their members.

Colorado

Job-delivery agencies in Colorado have been effective in placing ex-offenders in state government and in licensed occupations. However, there seems to be little central direction in the implementation of Colorado's law in regard to public employment.

As for licensing, the chief of all the boards' regulations has

said that he personally is visiting all the state's institutions to inform inmates of their right to be considered for an occupational license.

Washington

The law is well-known and applied with some frequency by the assistant attorney general in charge of business and occupational boards. "The law has definitely made a difference," says this official, "and has made boards far more conservative in denying people licenses." In Washington, the law has had the most noticible effect on real estate salesman. Formerly, all kinds of crime would rule out an applicant or licensee, but now the boards are concentrating only on violations of fiduciary relationships. Moreover, no crime is disqualifying if it is more than 10 years old and there is underway an effort to determine what sorts of crime "directly relate" to specific occupations.

As for state employment, the personnel director said that turnover is down so low that there is no way to know of dramatic effect in behalf of ex-offenders despite the department's publicity to agency heads after the law's passage. The director claims that the State has always had a liberal climate of attitude toward hiring offenders and that the law just gave this tone an official sanction. No cases of disputed denial have come to his attention which were based on the applicant's criminal past.

Hawaii

Probably the most intriguing by-product of the effort to remove restrictions has been through a prohibition on private employer discrimination against ex-offenders through amendment of fair employment practices statutes, a move first taken in Hawaii in 1974. The measure aroused considerable interest

around the country, as six states put forward similar legislative proposals this year. All failed to pass, however.

Hawaii's experience with the new law has been minimal, with reinstatement of grievants resulting from one of the three complaints brought thus far, the others found to have no cause. Observers of the Hawaii scene note that the heterogeneity of the Island labor force has created an attitude of tolerance which will make it an unlikely proving ground for the efficacy of the statute on the mainland.

In regard to the concept advanced by the Hawaii law that offenders should be brought within the framework of fair employment statutes, there are some potential attendant problems which should be considered.

It seems likely that if employers are restricted on inquiries into applicants' criminal pasts they will resort to increased use of surreptitious background investigations. Or gaps in an applicant's past employment record can raise the presumption of an incarceration, and jobs would be denied without giving the prospective employee opportunity to prove rehabilitation.

Successful offender job development and placement agencies, on the other hand, rather than concealing a client's past, usually disclose this fact to the employer together with information about efforts at rehabilitation in urging the employer to consider the "whole" man or woman in making a decision whether to hire him.

Also, as noted in the draft memo prepared by the Clearinghouse ["Employing the Ex-Offender: Some Legal Considerations] an employer may be liable for damages if he is careless in hiring a former offender with violent propensities and, according to some court rulings, must investigate the background of prospective employees for criminal or other activity that might bear upon an individual's suitability for employment. Another

important consideration is the question of what constitutes a "relationship" between the offense and the job sought in determining whether the individual is suitable for employment, a test that still remains largely subjective.

Before bringing offenders under fair employment statutes, therefore, these and other matters should be carefully considered.)

## SUMMARY

The project, as indicated, has identified offender employment disabilities in every state, prepared and distributed handbooks on ways in which such disabilities can be removed, developed contacts with persons who can utilize this material by translating it into action programs, and provided assistance in many states where efforts have been made to remove arbitrary job barriers.

In addition to this legislative activity, the Clearinghouse responded to requests for technical information about the operation of offender manpower programs, spoken before at least a dozen meetings concerned with ex-offender employment problems, and answered hundreds of inquiries from prisoners for employment information.

This close involvement with ex-offender job difficulties led the project to a deeper concern for implementation of the legislative change it monitored. As a sizeable portion of project mail from present and former convicts indicated, and as field contacts confirmed, there is a continuing widespread problem in effecting delivery of employment services to ex-offenders and a need for a catalyzing agent to draw together and better coordinate the scattered ex-offender employment programs that exist in most communities.

Much has yet to be done in this area. The project, for its part, has sought out effective job placement agencies in communities across the country to which employment requests from ex-offenders can be referred and began compiling a list of these organizations which can be the basis for a directory of services and agencies that provide employment assistance to offenders.

During the span of its existence, therefore, the Clearinghouse on Offender Employment Restrictions has strived not only to help in the

removal of artificial barriers to employment, but to provide such other assistance as it could to help the former offender become a manpower resource.

## DISTRIBUTION OF MATERIAL BY THE NATIONAL CLEARINGHOUSE ON OFFENDER EMPLOYMENT RESTRICTIONS

| | 1* Handbook | 2* Booklet | 3* License | 4* Parole | 5 Bonding | 6 Pownall | 7 CSC | 8* Plotkin | 9* Guide | 10 AFL-CIO | 11* Cunningham | 12* Volunteer | 13* R & D | 14 NAB | 15 Rehab. Cert | 16 C of C | 17* Horowitz | 18* Pamphlet | 19 Manpower | 20 Phillips | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Manpower programs | 585 | 460 | 540 | 1,150 | 350 | 410 | 65 | 90 | 55 | 122 | 880 | 410 | 1,010 | 135 | 160 | 130 | 193 | 555 | 49 | 77 | 7,436 |
| Government | 523 | 590 | 600 | 710 | 25 | 45 | 15 | 60 | 130 | 25 | 210 | 26 | 630 | 105 | 60 | 72 | 140 | 525 | 105 | 23 | 4,524 |
| Legislators | 45 | 78 | 190 | 25 | 0 | 20 | 0 | 5 | 15 | 5 | 5 | 5 | 4 | 5 | 0 | 4 | 25 | 130 | 5 | 2 | 568 |
| Corrections | 880 | 785 | 765 | 945 | 75 | 525 | 12 | 120 | 65 | 80 | 330 | 130 | 773 | 120 | 103 | 125 | 240 | 773 | 73 | 16 | 6,935 |
| Lawyers | 211 | 205 | 240 | 150 | 5 | 55 | 10 | 580 | 70 | 55 | 85 | 40 | 106 | 60 | 55 | 26 | 212 | 216 | 33 | 3 | 2,391 |
| Organizations (e.g. NCCD, etc. | 1,700 | 1,805 | 2,050 | 3,050 | 30 | 830 | 75 | 210 | 435 | 130 | 343 | 1,050 | 2,605 | 390 | 60 | 83 | 150 | 2,040 | 480 | 120 | 17,636 |
| Educators | 405 | 380 | 400 | 200 | 10 | 33 | 20 | 35 | 80 | 10 | 10 | 5 | 340 | 35 | 33 | 55 | 106 | 340 | 95 | 9 | 2,259 |
| Other | 280 | 700 | 850 | 1,300 | 45 | 82 | 107 | 60 | 163 | 69 | 105 | 404 | 355 | 140 | 85 | 30 | 58 | 763 | 111 | 8 | 5,715 |
| Total | 4,629 | 5,003 | 5,635 | 7,530 | 540 | 2,010 | 304 | 1,160 | 1,013 | 506 | 1,968 | 2,070 | 5,823 | 990 | 556 | 525 | 1,124 | 5,342 | 951 | 258 | 47,464 |

*Publications prepared by the Clearinghouse. (It has also prepared and circulated 12 issues of its newsletter, which has a current mailing list of over 6,000.)

1. Handbook - "Removing Offender Employment Restrictions" (14 pp., 1971, Rev. 1975)
2. Booklet - "Expanding Government Job Opportunities for Ex Offenders" (6 pp., 1972)
3. License - "Laws, Licenses and the Offender's Right to Work: (75 pp., 1972, Rev. 1974)
4. Parole - "Developing Jobs for Paroless" (12 pp., 1974)
5. Bonding - "The Federal Bonding Program" (DOL pamphlet)
6. Pownall - "Employment Problems of Released Prisoners" (Manpower reprint)
7. CSC - "Employment of the Rehabilitated Offender in the Federal Service" (Civil Service pamphlet)
8. Plotkin - "Constitutional Challenges to Employment Disability Statutes " (28 pp., 1974)
9. Guide - "Guide to Legislative Action" (23 pp., 1975)
10. AFL-CIO - "The Man Who Lived Again: Understanding and Helping the Released Prisoner" (Pamphlet by AFL-CIO)
11. Cunningham - "Jobs for the Ex Offender" (Reprint from Case & Comment (1973)
12. Volunteer - "What the Volunteer Organization Can do to Aid the Ex Offender" (8 pp., 1974)
13. R & D - "The Offender as a Manpower Resource" (Summary of DOL report)
14. NAB - "Staying Out of Jail is no Game for 100,000 Americans Each Year" (Pamphlet by National Alliance of Businessmen)
15. Rehab. Cert. - "Ex Servicemen: Exemplary Rehabilitation Certificate-How to Apply"
16. C of C - "Marshalling Citizen Power for Corrections" (Chamber of Commerce Pamphlet)
17. Horowitz - "Giving the Ex Offender a Break" (12 pp., 1973)
18. Pamphlet - "What You Can Do to Expand Job Opportunities for Ex Offenders " (6-fold--1972)
19. Manpower - "Manpower Programs for Offenders" (DOL Pamphlet)
20. Phillips - "A Case Study: Development and Implementation of a Manpower Service Delivery to the Criminal Offender in the U.S." (DOL paper by Phillips)